

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 205, 210, 215, 219 and 220, Fish and Game Code, and to implement, interpret or make specific Sections 11, 35, 48, 62, 200-202, 203.1, 205-210 and 215-222 of said Code, proposes to amend Sections 2.09, 2.10 and 5.00, renumber Section 1.71 to 1.70 and add new Section 1.71, Title 14, California Code of Regulations, relating to Fishing Methods Restrictions.

Informative Digest/Policy Statement Overview

Current regulations specify that for rivers and streams the maximum hook gap size is 3/4-inch. Single hooks do not have a gap restriction but the shank cannot exceed 2 inches. There are no hook-size restrictions for Delta waters, lakes and reservoirs, or the Colorado River.

In addition, current regulations define the northern boundary of the Delta as Highway 80. The use of the term Highway 80 is confusing because it does not specify either Interstate 80 or Business 80. A clear definition of the Delta is important because gear restriction regulations are different for areas within the Delta and areas outside of the Delta. In 2003, the eastern boundary of the Delta was relocated from Highway 99 to Interstate 5 to incorporate river and stream gear restrictions in the lower Mokelumne River. Subsequent investigations by enforcement staff have shown that this boundary change was not necessary.

The Department is proposing to replace the two-inch maximum shank length for single hooks in rivers and streams with a maximum hook-gap size of one inch. The maximum gap for multiple hooks in rivers and streams remains at 3/4 inch. In the Delta, the Department is recommending a one-inch maximum gap for single hooks and a 3/4-inch maximum gap for multiple hooks. These hook-gap restrictions will eliminate some of the larger hooks used to illegally snag salmon while not impacting the traditional gear used by striped bass and sturgeon fishers.

The Department is also proposing to relocate the definition of the Delta to a separate section within the chapter on definitions, from the current location in Section 5.00, Black Bass. The new location will be easier for the reader to find the Delta definition. The current Section 1.71 requires renumbering to Section 1.70 but is otherwise unchanged. The new Section 1.71 will contain the Delta definition.

The Department is also proposing to clarify the northern boundary of the Delta by indicating the correct highway names for Interstate 80 and Highway Business 80 instead of Highway 80. The Department is also proposing to relocate the eastern boundary of the Delta from Interstate 5 to its former location, Highway 99, because this

proposal contains hook-size restrictions for Delta waters that will provide protection for salmon. This adjustment will simplify black bass regulations and enforcement while continuing to provide adequate protection for Mokelumne River salmon.

This proposal also includes eliminating an obsolete reference in Section 2.09 that states "other devices defined in Section 2.10 as unlawful to use". The current and proposed Section 2.10 no longer contains the referenced device.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Beach Resort, Bay View Room, 2600 Sand Dunes Drive, Monterey, California on December 3, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before November 24, 2004 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than December 3, 2004, at the hearing in Monterey, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Robert R. Treanor or Tracy L. Reed at the preceding address or phone number. **Ed Pert, Department of Fish and Game, phone (916) 445-3616 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation clarifies existing regulations, and adds additional fishing gear restrictions to protect salmon and steelhead. These regulations changes are unlikely to have negative impacts on businesses.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:
- The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: October 4, 2004

Robert R. Treanor
Executive Director